

ADMINISTRATIVE RULES OF MONTANA

Chapter 10 Commissioner of Political Practices

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ADMINISTRATIVE RULES OF MONTANA

Sub-Chapter 1

Organizational Rule

44.10.101 ORGANIZATIONAL RULE (1) Organization of the Office of the Commissioner of Political Practices.

(a) History The position of the Commissioner of Political Practices was created by the Legislature in 1975.

(b) Administrative Attachment The Office of the Commissioner of Political Practices is attached to the Office of the Secretary of State for the administrative purposes set forth in 2-15-121 and 2-15-411, MCA.

(c) Commissioner The Commissioner of Political Practices is appointed for a term of six years and may be removed pursuant to 13-37-102(2) and 13-37-105, MCA.

(2) Functions of the Commissioner

(a) The Commissioner of Political Practices is to establish clear and consistent requirements for the full disclosure and reporting of the sources and disposition of funds used in Montana to support or oppose candidates, political committees, or issues, and in conjunction with the county attorneys, to enforce the election and campaign finance laws as specified in Title 13, chapters 35 and 37, MCA. The powers and duties of the Commissioner are provided in Title 13, chapter 37, part 1, MCA.

(b) The Commissioner also has enforcement responsibilities related to the Code of Ethics for government officers and employees in Title 2, chapter 2, part 1, MCA.

(c) In addition the Commissioner administers and enforces the provisions of the Montana Lobbyist Disclosure Act, Title 5, chapter 7, MCA.

(3) Personnel Roster Commissioner of Political Practices, 1205 Eighth Avenue, PO Box 202401, Helena, Montana 59620-2401. (History: Sec. 13-37-114, MCA; IMP, Sec. 2-4-201, MCA; EMERG, Eff. 1/1/76; AMD, 1979 MAR p. 652, Eff. 7/1/79; AMD, Eff. 6/30/82; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

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Sub-Chapter 2

Procedural Rule

44.10.201 INCORPORATION OF MODEL RULES, IN PART (1) The commissioner of political practices herein adopts and incorporates the Attorney General's Model Procedural Rules Introduction through rule 7 by reference to such rules as stated in ARM 1.3.101 through 1.3.210 and the Attorney General's Model Procedural Rules 22 through 24 by reference to such as stated in ARM 1.3.227 through 1.3.229 in cases when a formal declaratory ruling proceeding is requested by a person through the filing of a petition as prescribed in ARM 1.3.226. In all other cases, the commissioner will issue "advisory opinions" under the following procedure:

(a) A person desiring an interpretation to determine the applicability of a rule or statute administered by the commissioner to the person's activity or proposed activity may request an advisory opinion. All requests for an advisory opinion shall be in writing and shall contain:

(i) The identity, address, and signature of the person requesting the opinion.

(ii) A complete statement of the facts and circumstances upon which the commissioner is to base an opinion.

(iii) The rule or statute for which the person seeks an opinion.

(iv) The specific question presented for decision by the commissioner.

(b) Within a reasonable time after the receipt of a request for an advisory opinion, the commissioner shall consider the request and, based upon the facts presented in the request, prepare an opinion in writing, except as provided in (b)(i). The commissioner may seek public comment prior to issuing an advisory opinion, depending on the particular question presented for an opinion.

(i) The commissioner will not issue an advisory opinion, but will notify the inquirer of the determination, when:

(A) The issue is the subject of pending litigation.

(B) A prior opinion has been rendered that addresses the fact and question presented in a subsequent request.

(C) The facts are inadequate for a determination.

(c) An advisory opinion will be rendered upon the facts submitted in the request and over the signature of the commissioner. A copy of the opinion will be mailed to the inquirer and published in a manner which will provide wide public dissemination. The commissioner will maintain an index of all opinions and will make an opinion available upon request.

(d) An advisory opinion rendered in accordance with this rule is binding between the commissioner and the inquirer on the state of facts alleged in the written request. An advisory opinion is not subject to judicial review. A person desiring judicial review of an advisory opinion shall file a formal petition for declaratory ruling, pursuant to 2-4-501, MCA and (1) of this rule.

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(e) A later advisory opinion or declaratory ruling overrules an earlier advisory opinion or declaratory ruling with which it is necessarily in conflict.

(f) A request for a declaratory ruling or an advisory opinion shall have no effect on the commissioner's investigation of and disposition of a formal complaint filed pursuant to ARM 44.10.307. (History: Sec. 13-37-114 MCA; IMP, 2-4-201 MCA; NEW, Eff. 1/1/76; AMD, Eff. 2/6/76; AMD, 1979 MAR p. 652, Eff. 7/1/79; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

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Sub-Chapter 3

General Policy and Definitions

44.10.301 TERMS AND REFERENCES (1) Terms used in these rules shall be construed, unless the meaning is clearly apparent from the language or context, or unless such construction is inconsistent with the intent of the law, to mean:

(a) The statutory definitions as set forth in Title 13, MCA; and

(b) The definitions as set forth in these rules.

(2) All statutory references in these rules refer to the Montana Code Annotated, unless otherwise indicated. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-1-101 MCA; NEW, Eff. 2/6/76.)

Rule 02 reserved.

44.10.303 CONSTRUCTION OF REGULATIONS (1) These rules shall be interpreted and applied to permit the commissioner to discharge the statutory functions of the office and to secure a just and speedy determination of all matters before the commissioner. (History: Sec. 13-37-114 MCA; IMP, Sec. 1, Ch. 480, Laws of 1975; NEW, Eff. 1/1/76; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

Rule 04 reserved.

44.10.305 PRACTICE WHERE REGULATIONS DO NOT GOVERN (1) In any matter not governed by these regulations, the commissioner shall exercise discretion so as to execute the purposes of the act, without exceeding the statutory authority of the act. (History: Sec. 13-37-114 MCA; IMP, Sec. 1, Ch. 480, Laws of 1975; NEW, Eff. 1/1/76; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

Rule 06 reserved.

44.10.307 COMPLAINTS OF VIOLATIONS (1) A person who believes a violation of a provision of Title 13, chapters 35 or 37, MCA, or a rule or regulation implementing one or more of those statutory provisions has occurred may file a written complaint in person or by certified mail with the commissioner. When a complaint is received, it shall be marked to show the date of receipt. Unless the complaint is determined to be insufficient pursuant to (3) (a) of this rule, within five days after receipt of a complaint, the commissioner shall, by certified mail, acknowledge its receipt and transmit a copy to the alleged violator. Saturdays, Sundays, and holidays shall be excluded in the calculation of the five-day period.

(2) A complaint shall be typewritten or legibly handwritten in ink. The complete name and mailing address of the person filing the complaint shall be typewritten or legibly hand printed on the complaint; and the complaint shall be signed and verified by the oath of affirmation of such person, taken before any officer

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authorized to administer oaths. A complaint shall name the alleged violator, and should include the complete mailing address of the alleged violator, if known or readily discoverable. The complaint shall describe in detail the alleged violation, and cite each statute and/or rule that is alleged to have been violated. The complaint shall be filed together with any evidentiary material. A complaint may be filed on a form available on request from the commissioner's office.

(3) Upon receipt of a complaint, the commissioner shall investigate, except as provided in (3)(a) of this rule, the alleged violation. The commissioner, upon completion of the investigation, shall prepare a written summary of facts and statement of findings, which shall be sent to the complainant and the alleged violator. Following the issuance of a summary of facts and statement of findings, the commissioner may take other appropriate action.

(a) No investigation shall be required if a complaint is frivolous on its face, illegible, too indefinite, does not identify the alleged violator, is unsigned, or is not verified by the oath of affirmation of such person, taken before any officer authorized to administer oaths. In addition, no investigation shall be required if the complaint does not contain sufficient allegations to enable the commissioner to determine that it states a potential violation of a statute or rule within the commissioner's jurisdiction.

(4) A filed complaint and the summary of facts and statement of findings shall be public record. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-111(2) MCA; NEW, Eff. 2/6/76; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

Rule 08 reserved

44.10.309 COPYING OF PUBLIC RECORDS (1) The commissioner shall charge an amount authorized by law for providing copies of public records. This charge is the amount necessary to reimburse the office for its actual costs incident to such copying. (History: Sec. 13-37-114 MCA; IMP, 13-37-119(1) MCA; NEW, Eff. 1/1/76; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

Rule 10 reserved

44.10.311 ELECTIONEERING - INTERPRETIVE RULE (1) As used in 13-35-211, MCA, "electioneering" means the solicitation of support or opposition to a candidate or issue to be voted upon at the election or polling place in question, by means of:

(a) Personal persuasion, electronic amplification of the human voice, or the display or distribution of campaign materials.

(b) Offering or distribution of food, drink, or any other material benefit in a manner calculated to encourage recognition, support, or opposition to a candidate or issue.

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(c) "Electioneering" does not include the display of ordinary bumper stickers on automobiles. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-35-211 MCA; NEW, 1977 MAR p. 1236, Eff. 12/25/77.)

Rules 12 through 20 reserved

44.10.321 CONTRIBUTION-DEFINITION (1) For the purposes of Title 13, chapters 35 and 37, MCA, and these rules, the term "contribution" as defined in 13-1-101, MCA, includes, but is not limited to:

(a) Each contribution as listed in 13-37-229, MCA;
(b) The purchase of tickets or admissions to, or advertisements in journals or programs for testimonial or fund raising events, including, but not limited to dinners, luncheons, cocktail parties, and rallies held to support or oppose a candidate, issue, or political committee;

(c) A candidate's own money used on behalf of his or her candidacy, except as provided in 13-1-101(6)(b)(iv) and (10)(b)(ii), MCA; and

(d) An in-kind contribution, as defined in (2) of this rule.

(2) The term "in-kind contribution" means the furnishing of services, property, or rights without charge or at a charge which is less than fair market value to a candidate or political committee for the purpose of supporting or opposing any candidate, ballot issue or political committee, except as provided in 13-1-101(6)(a)(iii) and (6)(b)(i), MCA.

(a) An "in-kind contribution", includes, but is not limited to:

(i) Forgiveness of any loan to or debt of a candidate or political committee;

(ii) Payment of a loan or other debt by a third person;

(iii) An expenditure made at the behest of a candidate or political committee as specified in ARM 44.10.517;

(iv) A "coordinated expenditure" as defined in ARM 44.10.323(4); and

(v) The cost of distributing, republishing or reproducing campaign material (print or broadcast) produced or prepared by a candidate or political committee unless the distribution, republication or reproduction costs are a communication by a membership organization or corporation under 13-1-101(6)(b)(iii) or (10)(b)(iv), MCA.

(3) The fact that the public office being sought by the individual is not known by the contributor or has not yet been determined by the potential candidate at the time that the contribution is made or the fact that a candidate and/or issue being supported or opposed by a political committee is not known by the contributor or has not yet been determined by a political committee at the time that the contribution is made has no effect on the determination or reporting of that contribution. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-1-101(3) MCA; NEW, Eff. 1/1/76; AMD, Eff. 5/7/76; AMD, 1979 MAR p. 652, Eff. 7/1/79; AMD, 1999 MAR p. 2287, Eff. 10/8/99; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

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Rule 22 reserved

44.10.323 EXPENDITURE-DEFINITION (1) For the purposes of Title 13, chapters 35 and 37, MCA, and these rules, the term "expenditure" as defined in 13-1-101, MCA, includes, but is not limited to:

- (a) Each expenditure as listed in 13-37-230, MCA;
- (b) Expenses incurred by a candidate or political committee with respect to polls, surveys, and the solicitation of funds;
- (c) Expenses incurred in support of or opposition to the drafting, printing, distribution and collection of signatures for any petition for nomination or a statewide ballot issue;

- (d) A candidate's own expense, except as provided in 13-1-101(6)(b)(iv) and (10)(b)(ii), MCA;

- (e) Payment of interest on a loan or other credit received;

- (f) An in-kind expenditure, as defined in (2) of this rule.

(2) The term "in-kind expenditure" means the furnishing of services, property, or rights without charge or at a charge which is less than fair market value to a person, candidate, or political committee for the purpose of supporting or opposing any person, candidate, ballot issue or political committee, except as provided in 13-1-101(6)(a)(iii) and (6)(b)(i), MCA.

- (a) An "in-kind" expenditure includes, but is not limited to, the forgiveness of any loan or debt owed to a candidate or political committee.

(3) "Independent expenditure" means an expenditure for communications expressly advocating the success or defeat of a candidate or ballot issue which is not made with the cooperation or prior consent of or in consultation with, or at the request or suggestion of, a candidate or political committee or an agent of a candidate or political committee. An independent expenditure shall be reported as provided in ARM 44.10.531.

(4) "Coordinated expenditure" means an expenditure made in cooperation with, consultation with, at the request or suggestion of, or the prior consent of a candidate or political committee or an agent of a candidate or political committee. A coordinated expenditure shall be reported as an in-kind contribution as provided in ARM 44.10.511 and 44.10.513. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-1-101(7) MCA; NEW, Eff. 1/1/76; AMD, Eff. 5/7/76; AMD, 1977 MAR p. 1240, Eff. 12/25/77; AMD, 1979 MAR p. 652, Eff. 7/1/79; AMD, 1986 MAR p. 128, Eff. 1/31/86; AMD, 1999 MAR p. 2287, Eff. 10/8/99.)

Rule 24 reserved

44.10.325 POLITICAL COMMITTEE - DEFINITION (1) "Political committee" is defined in 13-1-101(18), MCA.

(2) A candidate and his or her campaign treasurer do not constitute a political committee. The campaign treasurer, while performing the statutory duties of a campaign treasurer, is the agent of the candidate.

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(3) If a political committee has subdivisions within the state, such as county committees, which have authority to receive contributions and make expenditures independent of the parent political committee, each subdivision is considered a separate political committee for purposes of Title 13, chapters 35 and 37, MCA, and these rules. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-1-101(12) MCA; NEW, Eff. 1/1/76; AMD, Eff. 5/7/76; AMD, 1977 MAR p. 1240, Eff. 12/25/77; AMD, 1979 MAR p. 652, Eff. 7/1/79; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

Rule 26 reserved

44.10.327 POLITICAL COMMITTEE, TYPES (1) For purposes of Title 13, chapters 35 and 37, MCA, and these rules, political committees shall be of three types:

- (a) principal campaign committee;
- (b) independent committee; and
- (c) incidental committee.

(2) These types of political committees are defined as follows:

(a) A principal campaign committee is a political committee that is specifically organized to support or oppose a particular candidate or issue. There are three types of principal campaign committees:

(i) A ballot issue committee is specifically organized to support or oppose a ballot issue, as defined in 13-1-101, MCA.

(ii) A particular candidate committee is specifically organized to support or oppose a particular candidate. A particular candidate committee is not the same as a candidate's own campaign organization which, according to ARM 44.10.325(2) is not a political committee.

(iii) A leadership political committee is defined in ARM 44.10.332(1).

(b) An independent committee is a political committee that is not specifically organized to support or oppose any particular candidate or issue but one that is organized for the primary purpose of supporting or opposing various candidates and/or issues. There are two types of independent committees:

(i) A political action committee ("PAC") is a committee composed of individuals who contribute their money for the purpose of supporting or opposing candidates or issues upon which the committee agrees.

(ii) A political party committee is a committee formed by a political party organization, as that term is defined in 13-37-216, MCA. Examples of political party committees are listed in ARM 44.10.333(1).

(c) An incidental committee is a political committee that is not specifically organized or maintained for the primary purpose of influencing elections but that may incidentally become a political committee by making a contribution or expenditure to support or oppose a candidate and/or issue.

(3) "Primary purpose" shall be determined based upon such criteria as allocation of budget, staff or members' activity, and the statement of purpose or goals

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of the individuals or person. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-1-101(12) MCA; Sec. 13-37-226(4) and (5) MCA; NEW, Eff. 1/1/76; AMD, 1979 MAR p. 652, Eff. 7/1/79; AMD, 1997 MAR p. 1828, Eff. 10/7/97; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

Rule 28 reserved

44.10.329 POLITICAL COMMITTEE, CLASSIFICATION (1) The commissioner shall classify a political committee upon the basis of information provided on the statement of organization which is set forth in ARM 44.10.405 and which is required to be filed by a political committee pursuant to section 13-37-201, MCA. The commissioner shall notify, in writing, a political committee of its classification.

(2) The political committee shall be classified as one of the types of political committee specified in ARM 44.10.327.

(3) The commissioner may, in writing, reclassify a political committee if the status of that committee should change pursuant to ARM 44.10.403(2), or pursuant to (5) of this rule.

(4) If the commissioner, based upon the information provided on the statement of organization, is unable to classify a political committee, additional information may be requested by the commissioner. If additional information is requested, a political committee shall provide the requested information within 10 days after its receipt of the request. Saturdays, Sundays, and holidays shall be excluded in the calculation of the 10-day period.

(5) A political committee, after it has received notice of its classification, may supply additional information and request to be reclassified. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-226(4) and (5) MCA; NEW, Eff. 1/1/76; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

44.10.330 DESIGNATION OF CONTRIBUTIONS FOR PRIMARY AND GENERAL ELECTIONS (1) Aggregate contributions for each election in a campaign are limited according to 13-37-216, MCA. An "election" in a campaign, for the purposes of 13-37-216, MCA, is defined as either a primary election or a general election.

(2) For purposes of applying aggregate contribution limits per election the following apply:

(a) Aggregate contribution limits for each election, as set forth in 13-37-216, MCA, apply to a primary election and to a general election as defined in ARM 44.10.334;

(b) Time periods for filing reports of contributions and expenditures are set forth in 13-37-226 and 13-37-228, MCA. As a general rule, contributions received by a candidate prior to and on the day of a primary election are designated for the primary election and are subject to the aggregate contribution limits for the primary election; however, a candidate in a contested primary may receive contributions

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designated for the general election during the primary election period (except for in-kind contributions) subject to the contribution limits for the general election;

(c) General election contributions received prior to the primary election must be maintained in a separate account and shall not be used until after the primary election;

(d) All contributions received by a candidate after the day of the primary election are designated as general election contributions and are subject to the aggregate contribution limit for the general election, except that a candidate may continue to receive contributions designated for the primary election subject to the limits after that election only for the purpose of paying primary election debts. General election contributions shall not be used to pay primary election debt;

(e) Leftover funds that were designated for the primary election may be used for general election purposes if all primary debt has been paid.

(3) If a candidate receives contributions designated for the general election prior to the primary, and does not proceed to the general election, the candidate must return the contributions to the donors. These funds are not "surplus campaign funds." (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-216 MCA; NEW, 1996 MAR p. 784, Eff. 3/22/96; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

44.10.331 LIMITATIONS ON RECEIPTS FROM POLITICAL COMMITTEES

(1) Pursuant to the operation specified in 13-37-218, MCA, limits on total combined contributions from political committees other than political party committees to legislative candidates are as follows:

(a) a candidate for the state house of representatives may receive no more than \$1400;

(b) a candidate for the state senate may receive no more than \$2300.

(2) These limits apply to total combined receipts for the entire election cycle of 2006.

(3) Pursuant to 13-37-218, MCA, in-kind contributions must be included in computing these limitation totals. (History: Sec. 13-37-114, 13-37-218 MCA; IMP, Sec. 13-37-218, 15-30-101(8) MCA; NEW, 1986 MAR p. 128, Eff. 1/31/86; AMD, 1988 MAR p. 595, Eff. 3/25/88; AMD, 1990 MAR p. 532, Eff. 3/16/90; AMD, 1992 MAR p. 1871, Eff. 8/28/92; AMD, 1995 MAR p. 2048, Eff. 9/28/95; AMD, 1996 MAR p. 787, Eff. 3/22/96; AMD, 1998 MAR p. 186, Eff. 1/16/98; AMD, 1999 MAR p. 2934, Eff. 12/17/99; AMD, 2001 MAR p. 2049, Eff. 10/12/01; AMD, 2005 MAR p. 2094, Eff. 10/28/05.)

44.10.332 LEADERSHIP POLITICAL COMMITTEES

(1) The term "leadership political committee maintained by a political officeholder", as used in 13-37-216(2)(b), MCA, means a "political committee" as defined in 13-1-101(18), MCA, managed or controlled by an elected official or someone designated by the elected official. The term "elected official" is defined in 5-7-102(4), MCA.

(2) A leadership political committee managed by an elected official who is also a candidate is considered to be organized on the candidate's behalf, and contributions to the committee are subject to the aggregate contribution limits established in 13-37-216(1), MCA.

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(3) A leadership political committee that makes contributions to another candidate, a candidate's committee, or any political committee organized on a candidate's behalf is subject to the aggregate contribution limits established in 13-37-216(1), MCA.

(4) A committee established and managed or controlled by an elected official or someone designated by the elected official, which is not a "political committee" as that term is defined in 13-1-101(18), MCA, is not a "leadership political committee maintained by a political officeholder." Such a committee may raise money for research, educational, and other purposes, so long as the fund raising and expenditures do not constitute "contributions" or "expenditures" pursuant to the definitions in 13-1-101, MCA. If the fund raising and expenditures result in contributions or expenditures according to the definitions in 13-1-101, MCA, and the committee is a "political committee" as defined in 13-1-101(18), MCA, the committee is a "leadership political committee maintained by a political officeholder."

(5) Leadership political committees maintained by a political officeholder are subject to the reporting requirements of Title 13, chapter 37, MCA.

(6) The commissioner shall classify leadership political committees maintained by a political officeholder pursuant to ARM 44.10.327 and 44.10.329 based on the information provided on the statement of organization. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-216 MCA; NEW, 1995 MAR p. 2048, Eff. 9/28/95; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

44.10.333 LIMITATIONS ON CONTRIBUTIONS FROM POLITICAL PARTY

COMMITTEES (1) Political committees formed by "political party organizations", as that term is defined in 13-37-216, MCA, are subject to the aggregate contribution limits established in 13-37-216(3), MCA. Such committees are "political party committees", and include all county central committees, city central committees, women's clubs, and other committees, that fit within the definition of "political committee" in 13-1-101(18), MCA, and were formed by a political party organization.

(2) Candidates will be responsible for monitoring contributions from political party committees to ensure that the contribution limits are not exceeded. (History: Sec. 13-37-114 MCA; IMP, 13-37-216 MCA; NEW 1995 MAR p. 2048, Eff. 9/28/95; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

44.10.334 ELECTIONS TO WHICH AGGREGATE CONTRIBUTION LIMITS

APPLY (1) For purposes of the limitations on contributions established in 13-37-216, MCA, and these rules, the term "election" is defined in 13-37-216(5), MCA.

(2) The term "contested primary", as used in 13-37-216(5), MCA, means a primary election in which two or more candidates compete for the same nomination.

(a) In partisan primary elections, if two or more candidates compete for one party's nomination, but only one candidate seeks a different party's nomination, it is a "contested primary", resulting in two elections to which the contribution limits in 13-37-216, MCA, apply only with respect to the primary for which two or more candidates compete for the party's nomination. For example, if two candidates seek

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Party A's nomination in the primary election for a public office, it is a contested primary with respect to Party A's nomination. If only one candidate seeks Party B's nomination for the same public office, it is not a contested primary with respect to Party B's nomination.

(b) In judicial and other nonpartisan primary elections, if a nonpartisan candidate automatically advances from the primary election to the general election pursuant to 13-14-117, MCA, it is not a contested primary election.

(c) When an incumbent judicial officer is the only candidate who files a declaration for nomination in the primary election, and subsequently faces a vote, pursuant to 13-14-212, MCA, for or against retention in the general election, there is no "contested primary", and there is only one election to which the contribution limits in 13-37-216, MCA, apply. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-216 MCA; NEW, 1995 MAR p. 2048, Eff. 9/28/95; AMD, 1996 MAR p. 787, Eff. 3/22/96.)

44.10.335 DISPOSAL OF SURPLUS CAMPAIGN FUNDS (1) Candidates shall dispose of surplus campaign funds within 120 days of filing the closing campaign report required by 13-37-228, MCA.

(a) The candidate's closing report shall be filed whenever all debts and obligations are extinguished and no further contributions or expenditures will be received or made which relate to the campaign.

(b) No closing report needs to be filed following a primary election campaign if the candidate will advance to the general election.

(2) "Surplus campaign funds" are those campaign funds remaining when all debts and other obligations of the campaign have been paid or settled, no further campaign contributions will be received, and no further campaign expenditures will be made.

(3) Surplus campaign funds will be considered to have been "disposed of" on the date payment is made by the candidate or the candidate's committee to a permissible person, entity, or account.

(4) The candidate shall be responsible for obtaining a receipt containing the requisite information from all recipients of any surplus campaign funds. Payment of surplus campaign funds shall be evidenced by a receipt from the recipient containing the following information:

(a) The full name and mailing address of the recipient;

(b) The date the funds were received;

(c) The full name of the candidate from whose campaign the funds were received, and;

(d) The exact amount of funds received.

(5) Those candidates with surplus campaign funds shall file a supplement to the closing campaign report, on a form prescribed by the commissioner, showing the disposition of surplus campaign funds. The report shall be accompanied by copies of all receipts required by (4) of this rule. The supplement shall be filed within 135 days after the closing report is filed.

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(6) A candidate shall abide by the prohibitions on the use of surplus campaign funds specified in 13-37-240, MCA.

(a) For purposes of the restrictions on the disposal of surplus campaign funds set forth in 13-37-240, MCA, "personal benefit" is defined in 13-37-240(2), MCA. For purposes of this definition, a candidate's "immediate family" includes the candidate's spouse and minor children only.

(b) For purposes of the restrictions on the disposal of surplus campaign funds set forth in 13-37-240, MCA, "campaign" means any organized effort to secure or prevent the nomination or election of a candidate for public office, or secure or prevent passage of a ballot issue.

(c) The following are examples of permissible uses of surplus campaign funds:

(i) Return of the funds to the contributor, so long as the funds will not result in personal benefit or a contribution to a campaign;

(ii) Donation of the funds to any organization or entity, so long as the use of the funds will not result in personal benefit or a contribution to a campaign;

(iii) Upon election, use of the funds to establish an account to serve a public purpose related to the officeholder's public duties, so long as the funds will not result in personal benefit or a contribution to a campaign.

(7) A candidate shall not contribute surplus campaign funds to a political committee, including a leadership political committee maintained by a political officeholder. However, nothing in this subsection shall be construed as prohibiting contribution of surplus campaign funds to a political party or a political party committee, so long as the funds are not earmarked for a specific campaign.

(8) Upon a determination that a candidate made a prohibited disposal of surplus campaign funds, the commissioner may employ any enforcement measures within his or her jurisdiction. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-240 MCA; NEW, 1995 MAR p. 2048, Eff. 9/28/95; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

44.10.336 PERSONAL BENEFIT (1) Pursuant to 13-37-240, MCA, the term "direct or indirect benefit" means the distribution of surplus campaign funds that benefit only the candidate or a member of the candidate's immediate family. Nothing in this rule prohibits the distribution of surplus campaign funds to a group of individuals or an organization to which the candidate or a member of the candidate's immediate family belongs, as long as the candidate or a member of the candidate's immediate family do not control how the group or organization spends the surplus campaign funds received by the group or organization, and the candidate or a member of the candidate's immediate family receive a benefit that is only incidental to their membership or participation within the group or organization. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-240 MCA; NEW, 1996 MAR p. 784, Eff. 3/22/96.)

44.10.337 AGGREGATE CONTRIBUTION LIMITS FOR WRITE-IN CANDIDATES (1) For purposes of the limitations on contributions established in 13-

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37-216, MCA, and these rules, the term "election" is defined in 13-37-216, MCA, and the term "candidate" is defined in 13-1-101, MCA. Pursuant to 13-10-211, MCA, a write-in candidate must file a declaration of intent. A candidate who is unsuccessful in a contested primary election, but who complies with applicable statutes to qualify as a write-in candidate for the general election, is subject to the aggregate contribution limits for both the primary election and the general election. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-216 MCA; NEW, 1996 MAR p. 784, Eff. 3/22/96.)

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Sub-Chapter 4

Campaign Finance Statements and Reports

44.10.401 STATEMENTS AND REPORTS, FILING (1) Each statement and report required by Title 13, chapters 35 and 37, MCA, and these rules shall be filed on forms prescribed by the commissioner, except as provided in ARM 44.10.413. The forms may be obtained without cost and upon request from the Commissioner of Political Practices, 1205 Eighth Avenue, PO Box 202401, Helena, Montana 59620-2401, telephone (406) 444-2942. The forms may also be downloaded from the office's website at <http://www.state.mt.us/cpp/>.

(2) All statements and reports required by Title 13, chapters 35 and 37, MCA, and these rules are filed with the commissioner and with the appropriate county election administrator, as specified in 3-37-225(1), MCA, and (2)(a) of this rule.

(a) Statements and reports filed by a candidate for district court judge are filed with the commissioner and with the election administrator of the county in which the election is held. If the election is held in more than one county, reports are filed with the election administrator at the county seat with the greatest population based upon the latest direct enumeration of the inhabitants thereof taken under the direction of the Congress of the United States or made by the state or municipality.

(b) Each statement and report filed shall be a legible copy bearing an original signature of the individual filing the statement or report.

(c) A statement or report is filed if it is delivered or faxed to the commissioner and the appropriate county election administrator before 5:00 p.m. on the prescribed filing date or if it is deposited in an established U. S. Post Office, postage pre-paid, no later than 5:00 p.m. three days before the prescribed filing date. A faxed report is timely filed if the original of the report is filed within five days after the fax transmission. Saturdays, Sundays, and holidays shall be excluded in the calculation of the five-day period.

(i) A delivered statement or report shall be acknowledged by a dated receipt. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-225(1) MCA; Sec. 13-37-231(1) MCA; Sec. 13-37-117(1) MCA; NEW, Eff. 1/1/76; AMD, 1977 MAR p. 1241, Eff. 12/25/77; AMD, 1979 MAR p. 652, Eff. 7/1/79; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

Rule 02 reserved

44.10.403 AMENDMENTS TO STATEMENTS AND REPORTS (1) Amendments correcting a report filed pursuant to sections 13-37-225 and 13-37-226, MCA, for a previous reporting period shall be filed with the next report following the date upon which the person filing the report became aware of the inaccuracy. The correction shall identify the date of the report and schedule containing the information to be corrected and the reason for the correction.

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(2) Any material change in information previously submitted in a Statement of Candidate or Statement of Organization filed pursuant to sections 13-37-201 or 13-37-205, MCA, and ARM 44.10.405 shall be reported by filing an amended statement with the appropriate filing officers within five (5) days after the change. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-229(10) MCA; Sec. 13-37-230(7) MCA; Sec. 13-37-201 MCA; Sec. 13-37-205 MCA; NEW, Eff. 2/6/76; AMD, 1979 MAR p. 652 , Eff. 7/1/79.)

Rule 04 reserved

44.10.405 STATEMENT OF ORGANIZATION - POLITICAL COMMITTEE, INFORMATION REQUIRED (1) A Statement of Organization required to be filed pursuant to 13-37-201 and 13-37-205, MCA, shall include, but not be limited to:

- (a) The complete name and address of a political committee.
- (b) The complete names and address of all related or affiliated political committees, and the nature of the relationship or affiliation.
- (c) The complete name and address of its campaign treasurer and campaign depository, and the complete name and address of its deputy campaign treasurer and secondary campaign depository, if any.
- (d) The complete names, addresses, and titles of its officers, if any.
- (e) A statement of whether a committee is incorporated.
- (f) The name, office sought, and party affiliation (if any) of each candidate whom a committee is supporting or opposing; if a committee is supporting the entire ticket of any party, the name of the party.
- (g) Ballot issue or issues concerned, if any, and whether a committee is in favor of or opposition to such issue or issues. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-117(1) MCA; Sec. 13-37-201 MCA; Sec. 13-37-202(1) MCA; Sec. 13-37-205 MCA; NEW, Eff. 1/1/76; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

Rule 06 reserved

44.10.407 AFFIDAVIT BY LOCAL CANDIDATE OR POLITICAL COMMITTEE NOT ANTICIPATING CONTRIBUTIONS OR EXPENDITURES IN EXCESS OF \$500 (1) If a local candidate or a political committee which is specifically organized to support or oppose a particular local candidate or issue anticipates receiving contributions in a total amount of less than \$500 and anticipates expending funds in a total amount of less than \$500 for all elections in a campaign, the candidate or an officer of the political committee shall file an affidavit of such intent at the same time the Statement of Candidate or Statement of Organization is filed as required by sections 13-37-201 and 13-37-205, MCA.

(2) If a local candidate or an officer of a local political committee files an affidavit pursuant to subsection (1) of this rule and subsequently receives contributions in a total amount or makes expenditures in a total amount in excess of \$500 for all elections in a campaign, such candidate or officer shall, within 5 days of the date when such expenditures or contributions exceed \$500, file an initial report

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disclosing all contributions and expenditures to that date and shall file all future reports required by section 13-37-226(2). (History: Sec. 13-37-114 MCA; IMP, 13-37-226(3) MCA; NEW, Eff. 1/1/76; AMD, 1979 MAR p. 652, Eff. 7/1/79.)

Rule 08 reserved

44.10.409 CLOSING REPORT - INDEPENDENT COMMITTEES (1) Except as provided in (2) below, independent political committees which are not incidental committees shall file a year-end closing report pursuant to 13-37-226(5)(c), MCA. The closing date of books for the report is December 31 and the report shall be filed with the appropriate filing officers no later than January 31.

(a) The report shall cover all contributions received and expenditures made since the closing date of books for the most recently filed report.

(b) The closing date of books for the report shall mark the cutoff date for the purpose of computing aggregate contributions and expenditures, and future reports shall use that date as a beginning point for the purpose of aggregation.

(2) No committee shall be required to file the report required by (1) if the committee was required to file a post-election report pursuant to 13-37-226(5)(b), MCA, during the second half of a calendar year and no further expenditures to support or oppose a candidate or ballot issue have been made by it between the closing date of books for the post-election report and December 31. The post-election report shall be considered as its closing report and the closing date of books for that report shall be used as the cutoff date for the purpose of aggregating contributions and expenditures for future reports.

(3) An independent committee which will not participate in future elections and which wishes to end its status as a reporting committee may file a statement of termination with its closing report. Any further activity by a terminated committee will require a new Statement of Organization. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-226(4)(c) MCA; NEW, 1979 MAR p. 655, Eff. 7/1/79; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

Rule 10 reserved

44.10.411 INCIDENTAL POLITICAL COMMITTEE, FILING SCHEDULE, REPORTS (1) An incidental committee shall file a statement of organization as required by 13-37-201, MCA. After filing a statement of organization, an incidental political committee shall file periodic reports as provided in this rule.

(2) Except as provided in (1) and (3), an incidental committee shall file periodic reports two days before the deadlines specified in 13-37-226(2)(a),(b),(c),(e) and (f), MCA, when applicable. The commissioner will prepare and distribute a schedule of filing deadlines for incidental committees and other committees under this subsection and 13-37-226(2), MCA.

(3) Except as provided in (3)(a), an incidental committee that makes contributions or expenditures to a state district candidate, to a local candidate or

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issue, or to a political committee that is specifically organized to support or oppose a state district candidate or a local candidate or issue, shall file periodic reports two days before the deadlines specified in 13-37-226(3)(a), and (b), MCA.

(a) An incidental committee that makes contributions or expenditures not exceeding \$500 to a local candidate or issue or to a political committee that is specifically organized to support or oppose a local candidate or issue does not have to file period reports of contributions and/or expenditures, but must file a statement of organization.

(b) For purposes of (2), a "local candidate or issue" includes those referenced in 13-37-226(4), MCA, but does not include those referenced in 13-37-206, MCA.

(4) An incidental committee that makes contributions or expenditures in connection with a statewide issue or a candidate for statewide office or a state district office must file the reports required by this rule even if its contributions or expenditures do not exceed \$500.

(5) Incidental committees that receive contributions that are earmarked for a specified candidate, ballot issue, or petition for nomination must report the contributions pursuant to 13-37-229, MCA, and ARM 44.10.511 and 44.10.519. A contribution to an incidental committee is earmarked if it meets the criteria set forth in ARM 44.10.519(1), and the exemptions described in ARM 44.10.519(1)(a) do not apply to such contributions received by incidental committees.

(6) If it is determined that an incidental committee has failed to file any of the reports required by these rules or the statutes governing reporting of contributions and expenditures, the commissioner may issue an order of noncompliance pursuant to 13-37-121, MCA, or may take any other action authorized by law.

(7) Nothing in this rule or in the statutes governing reporting of contributions and expenditures relieves any candidate or political committee (including an incidental committee) of the responsibility to timely, accurately, and fully report contributions and/or expenditures. (History: Sec. 13-37-114 MCA; Sec. 13-37-226(5) MCA; IMP, Sec. 13-37-226(5) MCA; NEW, Eff. 1/1/76; AMD, Eff. 5/7/76; AMD, 1977 MAR p. 1243, Eff. 12/25/77; AMD, 1979 MAR p. 653, Eff. 7/1/79; AMD, 1997 MAR p. 1828, Eff. 10/7/97; AMD, 1999 MAR p. 2287, Eff. 10/8/99.)

Rule 12 reserved

44.10.413 NONRESIDENT AND FEDERALLY-FILING COMMITTEES, REPORTS (1) As used in this rule, "federally-filing committee" means a state party central committee, a qualified multi-candidate committee under 2 U.S.C. Sec. 441(a)(4), or any other committee which files reports with the federal election commission on a monthly or quarterly basis pursuant to the Federal Election Campaign Act of 1971, as amended.

(a) If a federally-filing committee's reports filed with the federal election commission fully disclose the source and disposition of all funds used to influence elections in Montana, the commissioner shall accept copies of such reports in lieu of

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the periodic reports prescribed by the Campaign Finances and Practices Act. Such reports need be filed with the commissioner only for periods in which a federally-filing committee receives contributions from Montana sources or expends funds to influence elections in Montana. A copy of a statement of organization (FEC Form 1) shall accompany the first report, and copies of any amendments thereto shall be filed with the commissioner.

(b) This rule does not affect the duty of any such committee under 2 U.S.C. Sec. 439 to file copies of reports with the Montana secretary of state.

(2) Committees headquartered outside the state of Montana which are not federally-filing committees and which expend funds to influence elections in Montana may satisfy the requirements of the Montana Campaign Practices Act in one of two ways:

(a) If the committee files reports with a state officer in its home state, the commissioner may accept copies of such reports in satisfaction of the requirements of the Montana Campaign Finances and Practices Act if those reports fully disclose the source and disposition of all funds used to influence elections in Montana. Such reports need be filed only for periods in which the committee expends funds to influence elections in Montana. A copy of a statement of organization or equivalent statement shall accompany the first such report, and copies of any amendments thereto shall be filed with the commissioner as they occur.

(b) If a nonresident committee cannot satisfy the requirements set forth in the preceding subsection, it shall file reports on Montana forms for the periods in which the committee expends funds to influence elections in Montana. Such reports shall contain the information required by 13-37-229 and 13-37-230, MCA, and these rules.

(3) A copy of a report or statement filed pursuant to this rule need not be filed with a county election administrator in Montana. (History: Sec. 13-37-114 MCA; Sec. 13-37-227 MCA; IMP, Sec. 13-37-227 MCA; NEW, 1979 MAR p. 655, Eff. 7/1/79; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

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Sub-Chapter 5

Campaign Treasurer - Records and Reporting

44.10.501 UNIFORM SYSTEM OF ACCOUNTS (1) Each person required to file reports pursuant to Title 13, chapter 37, and these rules, shall maintain a system of accounts as prescribed and published in manual form by the commissioner. The manual may be obtained without cost and upon request from the Commissioner of Political Practices, 1205 Eighth Avenue, PO Box 202401, Helena, Montana 59620-2401, telephone (406) 444-2942.

(2) The uniform system of accounts provides, on a current basis, the detail and summary information necessary for preparing, directly from the accounting records, the reports required by Title 13, chapter 37, MCA, and these rules. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-117(2) MCA; NEW, Eff. 1/1/76; AMD, Eff. 2/6/76; AMD, 1988 MAR p. 595, Eff. 3/25/88; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

Rule 02 reserved

44.10.503 DEPOSITS AND EXPENDITURES, ONLY BY CAMPAIGN TREASURER, THROUGH DEPOSITORY (1) No contribution received or expenditure made by a candidate or political committee shall be deposited or expended except by the appointed campaign treasurer or duly authorized deputy treasurer through the designated primary or secondary depository.

(2) All funds received by the campaign treasurer shall be deposited as specified in section 13-37-207, MCA, except that funds received prior to and on the 5th day before the date of filing of any report shall be deposited and reported on that report.

(3) All expenditures, except expenditures from the petty cash fund, shall be made by check drawn on the designated depository.

(a) Expenditures from the petty cash fund shall be by a receipt voucher designating the date the monies were withdrawn, the exact amount of the withdrawal and by whom the monies were withdrawn, the name of the person or vendor to whom the monies were paid, and the purpose for which the monies were used. The receipt vouchers shall be attached to the cancelled check which provided the monies for the petty cash fund for the period and shall be maintained as a permanent record of the treasurer.

(b) No check shall be drawn payable to the order of cash, except that the withdrawal of monies for the purpose of providing a petty cash fund shall be by check drawn on the primary depository and payable to the order of cash. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-205 MCA; Sec. 13-37-207 MCA; Sec. 13-37-215 MCA; Sec. 13-37-226(6) MCA; NEW, Eff. 1/1/76.)

Rule 04 reserved

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44.10.505 CASH CONTRIBUTION, RECEIPT (1) No candidate or political committee shall receive a cash contribution in excess of \$25 unless the candidate or political committee prepares a receipt. Such receipt shall contain the following information:

- (a) The full name and mailing address (occupation and principal place of business, if any) of the contributor.
- (b) The date the contribution was received.
- (c) The name of the person who received the contribution on behalf of the candidate or political committee.
- (d) The exact amount of the contribution.
- (2) The receipt is to be kept as a part of the treasurer's records as specified in section 13-37-207, MCA. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-207 MCA; NEW, Eff. 1/1/76.)

Rule 06 reserved

44.10.507 TRANSFER OF CONTRIBUTION TO CAMPAIGN TREASURER

(1) Any candidate or agent of any candidate or political committee who receives a contribution on behalf of a candidate or political committee shall, before the end of the 5th day, transfer it to the campaign treasurer with full disclosure of the source, as required by section 13-37-229, MCA, and ARM 44.10.519(2) and 44.10.505. (History: Sec. 13-37-114 MCA; IMP, 13-37-207 MCA; Sec. 13-37-229 MCA; NEW, Eff. 1/1/76; AMD, 1979 MAR p. 652, Eff. 7/1/79.)

Rules 08 through 10 reserved

44.10.511 CONTRIBUTIONS, REPORTING (1) A contribution becomes a contribution on the date it is received; or, in the case of an in-kind contribution, on the date the consideration is received by the candidate or political committee.

(2) A contribution received by check drawn on a joint checking account shall be deemed and reported as a contribution from the person signing the check, unless otherwise specified in writing at the time the contribution is received.

(3) In the case of property held jointly by a candidate and another, a contribution therefrom will be presumed to be a contribution from the candidate so long as the property was owned jointly prior to the time that the candidate became a candidate as defined in 13-1-101(5), MCA.

(4) A contribution shall be reported for the reporting period during which it is received.

(5) For the purposes of 13-37-226(1)(b), (2)(d), and (3)(a), MCA, the report required to be filed within 24 or 48 hours shall be filed as follows:

(a) It shall be delivered within 24 or 48 hours, as appropriate, after the receipt thereof, Saturdays, Sundays, and holidays excepted, to the commissioner's office and the appropriate county election administrator; or

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(b) It shall be faxed to the commissioner's office and the appropriate county election administrator, provided the original of the report is received by the commissioner and the appropriate election administrator within five days after the fax transmission. Saturdays, Sundays, and holidays shall be excluded in the calculation of the five-day period.

(c) It shall be reported again on the post-election report. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-226(1)(a) and (2)(a) MCA; Sec. 13-37-229 MCA; NEW, Eff. 1/1/76; AMD, Eff. 2/6/76; AMD, 1977 MAR p. 1245, Eff. 12/25/77; AMD, 1979 MAR p. 652, Eff. 7/1/79; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

Rule 12 reserved

44.10.513 IN-KIND CONTRIBUTION, REPORTING (1) For the purposes of Title 13, chapter 37, and these rules, an in-kind contribution shall be reported as follows:

(a) A candidate or political committee shall report an in-kind contribution on the appropriate reporting schedule and, in addition to the reporting requirements specified in ARM 44.10.511, shall identify it as to its nature.

(i) The total value of the services, property, or rights contributed in-kind shall be deemed to have been consumed in the reporting period in which received.

(b) The value of an in-kind contribution shall be determined as follows:

(i) It shall be reported at its fair market value at the time of the contribution;
or

(ii) It shall be reported at the difference between the fair market value at the time of the contribution and the amount charged the contributee; or

(iii) It shall be reported at the actual monetary value or worth at the time of the contribution; or

(iv) If due to extraordinary circumstances none of these provisions would be appropriate or no reasonable fair market value can be established, it shall be sufficient to report a precise description of such in-kind contribution so received.

(c) Fair market value shall be the retail price of such services, property, or rights in the market from which it ordinarily would have been purchased by the contributee at the time of its contribution. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-229(10) MCA; NEW, Eff. 1/1/76; AMD, Eff. 2/6/76; AMD, 1977 MAR p. 1246, Eff. 12/25/77.)

Rule 14 reserved

44.10.515 LOANS AS CONTRIBUTIONS, REPORTING (1) For the purposes of Title 13, chapter 37, and these rules, a loan shall be reported as follows:

(a) A candidate or political committee shall report a loan on the appropriate reporting schedule and, in addition to the reporting requirements specified in ARM 44.10.511, shall identify it as to its nature.

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(b) A loan made to a candidate or political committee by a person, other than in the regular course of the lender's business, shall be deemed a contribution by that person.

(c) A loan made to a candidate or political committee by any person in the regular course of the lender's business shall be deemed a contribution by the obligor on the loan and by any other person endorsing the loan. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-229(5) and (10) MCA; NEW, Eff. 1/1/76.)

Rule 16 reserved

44.10.517 EXPENDITURE ENCOURAGED TO AVOID CONTRIBUTION, REPORTING (1) If a candidate or political committee, or member thereof, advises, counsels, or otherwise knowingly encourages any person to make an expenditure for the purpose of avoiding direct contributions, or for any other reason, the expenditure shall be considered a contribution by that person to the candidate or political committee encouraging the expenditure.

(2) Such contributions shall be reported pursuant to the provisions of ARM 44.10.513. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-229(10)MCA; NEW, Eff. 1/1/76.)

Rule 18 reserved

44.10.519 EARMARKED CONTRIBUTION, REPORTING (1) For the purposes of section 13-37-217, MCA, and these rules, an "earmarked contribution" is a contribution made with the direction, express or implied, that all or part of it be transferred to or expended on behalf of a specified candidate, ballot issue, or petition for nomination.

(a) A contribution is not earmarked when the initial recipient is:
(i) The candidate for the benefit of whom it is to be expended;
(ii) A political committee which supports a single candidate for the benefit of whom it is to be expended;

(iii) A political committee which supports or opposes a single ballot issue or petition for nomination for the benefit of which it is to be expended; or

(iv) A political committee which supports or opposes more than one candidate and/or issue or petition for nomination and there is no direction, express or implied, that all or part of the contribution will be expended for the benefit of a specified candidate and/or issue or petition for nomination.

(2) An earmarked contribution shall be reported as follows:

(a) The intermediary candidate or political committee receiving an earmarked contribution shall report it pursuant to the provisions of ARM 44.10.511 and, in addition, shall:

(i) Report it as an "earmarked contribution";
(ii) Report the name and address of the candidate or political committee for which the earmarked contribution is ultimately intended.

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(b) The intermediary candidate or political committee, when transferring an earmarked contribution or thing of value received, shall report it pursuant to the provisions of ARM 44.10.531 and, in addition, shall:

- (i) Report it as an "earmarked contribution";
- (ii) Inform the candidate or political committee ultimately receiving the transfer of the earmarked contribution of the full name and mailing address (occupation and principal place of business, if any) of the original contributor.

(c) The candidate or political committee ultimately receiving an earmarked contribution shall report it pursuant to the provisions of ARM 44.10.511 and, in addition, shall:

- (i) Report it as an "earmarked contribution";
- (ii) Report it as a contribution in the name of the original contributor, disclosing the full name, mailing address (occupation and principal place of business, if any);
- (iii) Report the full name and mailing address of the intermediary candidate or political committee. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-229(4) and (10) MCA; Sec. 13-37-230(4) MCA; NEW, Eff. 1/1/76; AMD, Eff. 5/7/76; AMD, 1977 MAR p. 1240, Eff. 12/25/77.)

Rule 20 reserved

44.10.521 MASS COLLECTIONS AT FUND-RAISING EVENTS--ITEMIZED ACCOUNT OF PROCEEDS, REPORTING (1) For the purposes of 13-37-229(8), MCA:

(a) "Mass collections" made at a fund-raising event include the proceeds received from passing the hat or from the sale of items such as campaign pins, flags, emblems, hats, banners, raffle tickets, auction items, refreshments, baked goods, admission tickets and similar items sold at a dinner, rally, auction, dance, bake sale, rummage sale or similar fund-raising event. Provided that mass collections do not include the proceeds of purchases of \$35 or more for any candidate or political committee.

(b) "Itemized account of proceeds" means the date and approximate number of individuals in attendance at a fund-raising event, a description of the method utilized to gain the proceeds of a mass collection (i.e.; passing the hat, sale of raffle tickets, auction items, etc.) and the total amount received from each method utilized.

(2) For purposes of preparing the statement of deposit required by 13-37-207(2), MCA, a record identifying the name of and amount received from each person must be maintained for a purchase of \$35 or more at an event for any candidate or political committee. The proceeds of purchases of less than \$35 may be recorded and deposited in lump sum without identifying the name of the contributor. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-229(7) and (10) MCA; NEW, Eff. 1/1/76; AMD, 1979 MAR p. 653, Eff. 7/1/79; AMD, 1988 MAR p. 595 Eff. 3/25/88; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

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Rule 22 reserved

44.10.523 AGGREGATE CONTRIBUTIONS-DEFINITION, REPORTING (1)

For the purposes of sections 13-37-229 and 13-37-216, MCA, the term "aggregate contributions" means the total of all of the following contributions made by or received from a person for all elections in a campaign:

- (a) All contributions, as defined in ARM 44.10.321.
- (b) All earmarked contributions, as defined in ARM 44.10.519, subsection (1).
- (c) All expenditures encouraged in order to avoid a contribution, as specified in ARM 44.10.517.

(2) For purposes of section 13-37-216, MCA, a contribution to a multi-candidate principal campaign committee is considered a contribution to each of the candidates in an amount proportional to the total number of candidates, unless otherwise specified in writing by the contributor at the time the contribution is received. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-216 MCA; Sec. 13-37-229(2) and (10) MCA; NEW, Eff. 1/1/76; AMD, 1979 MAR p. 652, Eff. 7/1/79.)

Rule 24 reserved

44.10.525 DEBTS AND OBLIGATIONS OWED TO A CANDIDATE OR POLITICAL COMMITTEE, REPORTING (1) Pursuant to 13-37-229(7), MCA, each report required by 13-37-226, MCA, shall disclose all debts and obligations owed to a candidate or political committee. Debts and obligations shall continue to be reported so long as they remain outstanding.

(2) A reporting candidate or political committee shall report the full name and mailing address (occupation and principal place of business, if any) of each person who owes a debt or obligation to the candidate or political committee at the end of a reporting period, including the amount, date contracted, and nature of each debt and obligation owed by each person. If the exact amount of a debt or obligation is not known, the estimated amount owed shall be reported. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-229(6); NEW, Eff. 1/1/76; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

Rules 26 through 30 reserved

44.10.531 EXPENDITURES, REPORTING (1) An expenditure is made on the date payment is made, or in the case of an in-kind expenditure, on the date the consideration is given.

(2) An expenditure shall be reported on the date and for the reporting period during which it is made.

(3) Expenditures made from the petty cash fund need not be reported, except that an accounting shall be maintained pursuant to ARM 44.10.503.

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(4) Independent expenditures, as defined in ARM 44.10.323, shall be reported in accordance with the procedures for reporting other expenditures. In addition, a person making an independent expenditure shall report the name of the candidate or committee the independent expenditure was intended to benefit, and the fact that the expenditure was independent. The candidate or political committee benefiting from the independent expenditure does not have to report the expenditure. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-230(7) MCA; NEW, Eff. 1/1/76; AMD, 1977 MAR p. 1247, Eff. 12/25/77; AMD, 1986 MAR p. 128, Eff. 1/31/86; AMD, 1999 MAR p. 2287, Eff. 10/8/99.)

Rule 32 reserved

44.10.533 IN-KIND EXPENDITURE, REPORTING (1) For the purposes of Title 13, chapter 37, MCA, and these rules, an in-kind expenditure shall be reported as follows:

(a) A candidate or political committee shall report an in-kind expenditure on the appropriate reporting schedule and, in addition to the reporting requirements specified in ARM 44.10.531, shall identify it as to its nature.

(b) The value of an in-kind expenditure shall be determined as follows:

(i) It shall be reported at its fair market value at the time of the expenditure; or

(ii) It shall be reported at the difference between the fair market value at the time of the expenditure and the amount charged the expendee; or

(iii) It shall be reported at the actual monetary value or worth at the time of the expenditure; or

(iv) If due to extraordinary circumstances none of these provisions would be appropriate or no reasonable fair market value can be established, it shall be sufficient to report a precise description of such in-kind expenditure as made.

(c) Fair market value shall be the retail price of such would have been purchased by the expendee at the time of its expenditure. (History: Sec. 13-37-114 MCA; IMP, Sec. 13-37-230(7) MCA; NEW, Eff. 1/1/76; AMD, Eff. 2/6/76.)

Rule 34 reserved

44.10.535 DEBTS AND OBLIGATIONS OWED BY A CANDIDATE OR POLITICAL COMMITTEE, REPORTING (1) Pursuant to section 13-37-230(6), MCA, each report required by section 13-37-226, MCA, shall disclose all debts and obligations owed by a candidate or political committee. Debts and obligations shall continue to be reported so long as they remain outstanding.

(2) A reporting candidate or political committee shall report the full name and mailing address (occupation and principal place of business, if any) of each person to whom a debt or obligation is owed at the end of a reporting period, including the amount, date contracted, and nature of each debt and obligation owed to each person. If the exact amount of a debt or obligation is not known, the

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estimated amount owed shall be reported. (History: Sec. 13-37-114, MCA; IMP, Sec. 13-37-230(6), MCA; NEW, Eff. 1/1/76.)